

NEXUS BANKRUPTCY
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Attorney for Debtor

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION

In re:

PATRICIA ANN DOUBLET,

Debtor.

Case No: 6:23-bk-14082-WJ

Chapter 13

**NOTICE OF ERRATA RE: MOTION IN
INDIVIDUAL CASE FOR ORDER
IMPOSING A STAY OR CONTINUING
THE AUTOMATIC STAY AS THE
COURT DEEMS APPROPRIATE**

Hearing:

Date: October 4, 2023

Time: 2:30 p.m.

Courtroom: 304

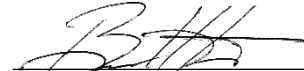
ALL INTERESTED PARTIES, PLEASE TAKE NOTICE:

Debtor, Patricia Ann Doublet, hereby submits the following Notice of Errata to correct the Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate filed on September 20, 2023 as Docket #15 ("Motion").

The Motion inadvertently failed to list one of Debtor's prior cases which was dismissed within one year of the filing of the instant case. As such, the Motion was framed as a motion to *continue* the stay, rather than a motion to *impose* a stay. The corrected version of the Motion is attached hereto.

Date: September 27, 2023

NEXUS BANKRUPTCY



BENJAMIN HESTON,
Attorney for Debtor

MOTION FOR ORDER IMPOSING A STAY OR CONTINUING THE AUTOMATIC STAY AS THE COURT DEEMS APPROPRIATE

Movant: PATRICIA ANN DOUBLET

1. **The Property or Debt at Issue:**

a. ☒ Movant moves for an order imposing a stay with respect to the following property (Property):

☐ Vehicle (*describe year, manufacturer, type, and model*):

Vehicle Identification Number:

Location of vehicle (*if known*):

☐ Equipment (*describe manufacturer, type, and characteristics*):

Serial number(s):

Location (*if known*):

☐ Other Personal Property (*describe type, identifying information, and location*):

☒ Real Property

Street Address: **4890 Huntsmen Place**

Apt./Suite No.:

City, State, Zip Code: **Fontana, CA 92336**

Legal description or document recording number(include county of recording):

☐ See attached continuation page

The following creditor(s) have a security interest or unexpired lease in this Property (give full name and address of creditor) (see below) to secure the sum of approximately (see below) now owed. (Secured Creditor/Lessor). Additional creditors who are the subject of this motion, and their respective claims, addresses and collateral, are described on the continuation sheets attached. (*Attach additional sheets as necessary*)

The Bank of New York Mellon

Po Box 10826

Greenville, SC 29603-0826

Claim: \$362,000

Collateral: Debtor's Residence

b. ☒ Movant moves for an order **imposing a stay** with respect to *any and all actions* against the Debtor and the estate taken concerning the debt/lease owed to the Secured Creditors/Lessors as described in this motion; and/or

c. ☒ Movant moves for an order **imposing a stay as to all creditors.**

d. ☐ Movant moves for an order **continuing the automatic stay** with respect to any and all actions against the Debtor and the estate taken concerning the debt/lease owed to the Secured Creditor/Lessor, and/or

e. ☐ Movant moves for an order **continuing the automatic stay as to all creditors.**

2. **Case History:**

a. ☒ A voluntary ☐ An involuntary petition concerning an individual[s] under chapter ☐ 7 ☐ 11 ☐ 12

☒ 13 was filed concerning the present case on (*specify date*): **September 7, 2023**

b. ☐ An Order of Conversion to Chapter ☐ 7 ☐ 11 ☐ 12 ☐ 13 was entered on (*specify date*):

c. ☐ Plan was confirmed on (*specify date*):

- d. ☒ Other bankruptcy cases filed by or against this Debtor have been pending within the past year preceding the petition date in this case. These cases and the reasons for dismissal are:

1. Case name: **In re Patricia Ann Doublet**

Case number: **6:23-bk-10896-WJ**

Chapter: **13**

Date Filed: **March 8, 2023**

Date dismissed: **July 11, 2023**

Relief from stay re this Property

☐ was

☒ was not granted

Reason for dismissal:

Debtor was involved in an auto accident which resulted in her car being totaled. Debtor sought and obtained a voluntary dismissal so that she could finance a new vehicle.

2. Case name: **In re Patricia Ann Doublet**

Case number: **6:22-bk-11243-WJ**

Chapter: **13**

Date Filed: **April 2, 2022**

Date dismissed: **February 23, 2023**

Relief from stay re this Property

☐ was

☒ was not granted

Reason for dismissal:

The Chapter 13 Trustee filed a Motion to Dismiss after a payment had not yet posted by the due date. Debtor tendered the payment which posted to the Trustee's accounting prior to the deadline for filing an opposition. The Court ultimately ruled on the Trustee's Motion without a hearing before the Chapter 13 Trustee had an opportunity to withdraw the Motion.

☐ See attached continuation page

- e. ☐ As of the date of this motion the Debtor ☐ has ☐ has not filed a statement of intentions regarding this Property as required under 11 U.S.C. §521(a)(2). If a statement of intentions has been filed, Debtor ☐ has ☐ has not performed as promised therein.
- f. ☒ The first date set for the meeting of creditors under 11 U.S.C §341(a) is/was **October 25, 2023** and the court ☐ has ☐ has not fixed a later date for performance by Debtor of the obligations described at 11 U.S.C. §521(a)(2). The extended date (if applicable) is .
- g. ☐ In a previous case(s), as of the date of dismissal there was:
☐ an action by the Secured Creditor/Lessor under 11 U.S.C. §362(d) still pending or
☐ such action had been resolved by an order terminating, conditioning, or limiting the stay as to such creditor.

3. The equity in the property is calculated as follows:

- | | |
|---|------------------|
| a) 1. Property description/value: 4890 Huntsmen Place, Fontana, CA 92336 | \$880,000 |
| 2. Creditor/Lien amount: The Bank of New York Mellon | \$362,000 |
| 3. Creditor/Lien amount: | \$__ |
| 4. Creditor/Lien amount: | \$__ |
| 5. Creditor/Lien amount: | \$__ |
| 6. Total Liens | \$362,000 |
| 7. Debtor's Homestead Exemption | \$475,000 |
| 8. Equity in the Property (subtract lines 7 and 8 from line 1 and enter here) | \$43,000 |
| b) 1. Property description/value: <u> </u> | \$__ |
| 2. Creditor/Lien amount: <u> </u> | \$__ |
| 3. Creditor/Lien amount: <u> </u> | \$__ |
| 4. Creditor/Lien amount: <u> </u> | \$__ |
| 5. Creditor/Lien amount: <u> </u> | \$__ |
| 6. Total Liens | \$__ |
| 7. Debtor's Homestead Exemption | \$__ |
| 8. Equity in the Property (subtract lines 6 and 7 from line 1 and enter here) | \$__ |

☐ See attached continuation page

4. **Grounds for Continuing the Stay:**

- a. ☐ Pursuant to 11 U.S.C. § 362(c)(3) the stay should be continued on the following grounds:
1. ☐ The present case was filed in good faith notwithstanding that a prior single or joint case filed by or against the individual Debtor which was pending within the year preceding the petition date was dismissed, because:
 - A. ☐ The prior dismissal was of a case not refiled under chapter 7 after dismissal under 11 U.S.C. § 707(b);
 - B. ☐ Good faith is shown because:
☐ See attached continuation page
 2. ☐ The Property is of consequential value or benefit to the estate because:
 - A. ☐ The fair market value of the Property is greater than all liens on the Property as shown above in paragraph 3 and as supported by declarations attached (*describe separately as to each property*);
 - B. ☐ The Property is necessary to a reorganization for the following reasons:
☐ See attached continuation page
 - C. ☐ The Secured Creditor/Lessor's interest can be adequately protected by (describe Movant's proposal for adequate protection:)
☐ See attached continuation page
 3. ☐ The presumption of a bad faith filing under 11 U.S.C. § 362(c)(3)(C)(i) is overcome in this case as to *all creditors* because:
 - A. ☐ The prior dismissal was pursuant to the creation of a debt repayment plan. 11 U.S.C. § 362(i);
 - B. ☐ Debtor's failure to file or amend the petition or other documents as required by the court or Title 11 of the United States Code and resulting in dismissal was excusable because such failure was caused by the negligence of Debtor's attorney;
 - C. ☐ Debtor's failure to file or amend the petition or other documents as required by the court or Title 11 of the United States Code and resulting dismissal was excusable because ____
☐ See attached continuation page
 - D. ☐ Debtor's failure to provide adequate protection as ordered by the court in the prior case is excusable because ____
☐ See attached continuation page
 - E. ☐ Debtor's failure to perform the terms of a confirmed plan in the prior case is excusable because ____
☐ See attached continuation page
 - F. ☐ There has been a substantial change in the personal or financial affairs of the Debtor since the dismissal of the prior case(s) as follows:

From this, the court may conclude that this case, if a case under chapter 7, will result in a discharge or, if under chapter 11 or 13, in a confirmed plan that will be fully performed.
☐ See attached continuation page
 - G. ☐ For the following additional reasons ____

☐ See attached continuation page

4. ☐ The presumption of a bad faith filing as to the Secured Creditor/Lessor under 11 U.S.C. §362(c)(3)(C)(ii) is overcome in this case because ____

☐ See attached continuation page

5. **Grounds for Imposing a Stay:**

- a. ☒ Pursuant to 11 U.S.C. §362(c)(4) this case was filed in good faith and grounds exist for imposing a stay as follows:

1. ☒ The Property is of consequential value or benefit to the estate because the fair market value of the Property is greater than all liens on the property as shown above in paragraph 3 and as supported by declarations attached.
2. ☒ The Property is of consequential value or benefit to the estate because the Property is necessary to a reorganization for the following reasons:

The Property is Debtor's residence and is inherently necessary for reorganization. In re Elmore, (BC CD CA 1988) 94 BR 670, 677.

☐ See attached continuation page

3. ☒ The Secured Creditor/Lessor's interest can be adequately protected by *(describe Movant's proposal for adequate protection)*:

The Debtor will be making post-petition payments. 11 U.S.C. §361(1).

The Property has a substantial equity cushion. In re Mellor, (9th Cir. 1984) 734 F2d 1396, 1400; Matter of Plaza Family Partnership, (ED CA 1989) 95 BR 166, 171; In re Helionetics, Inc. (BCCD CA 1987) 70 BR 433, 440; In re Southerton Corp. (MD PA 1982) 46 BR 391, 399.

☐ See attached continuation page

- b. ☒ The present case was filed in good faith notwithstanding that the prior single or joint cases filed by or against the individual Debtor pending within the year preceding the petition date were dismissed, because:

1. ☒ The prior dismissal was of a case not refiled under chapter 7 after dismissal under 11 U.S.C. §707(b);
2. ☒ Good faith is shown because:

The prior dismissal was not due to any factors which would be relevant to the viability of the present case. Debtor was in an auto accident which resulted in a total loss of her prior vehicle. She needed to obtain a new vehicle and sought dismissal so that she could do so outside of bankruptcy.

☐ See attached continuation page

- c. ☒ The presumption of a bad faith filing under 11 U.S.C. §362(c)(4)(D)(i) is overcome in this case as to *all creditors* because:

1. ☐ Debtor had a substantial excuse in failing to file or amend the petition or other documents as required by the court or Title 11 of the United States Code, resulting in the prior dismissal(s) as follows: ____

☐ See attached continuation page

2. ☐ Debtor's failure to file or amend the petition or other documents as required by the court or Title 11 of the United States Code and resulting dismissal was as the result of the negligence of Debtor's attorney;

3. ☐ Debtor's failure to provide adequate protection as ordered by the court in the prior case is excusable

because

☐ See attached continuation page

4. ☐ Debtor's failure to perform the terms of a confirmed plan in the prior case is excusable because __

☐ See attached continuation page

5. ☐ There has been a substantial change in the personal or financial affairs of the Debtor since the dismissal of the prior case(s) as follows: __

(from which the Court may conclude that this case, if a case under chapter 7, may be concluded with a discharge or, if under chapter 11 or 13, with a confirmed plan that will be fully performed).

☐ See attached continuation page

6. ☒ For the following additional reasons

The dismissal was sought for the sole purpose of allowing the Debtor to purchase a new vehicle. The vehicle which Debtor has since obtained has a lower payment than the vehicle which had been included in the prior case.

☐ See attached continuation page

7. ☐ The presumption of bad faith as to the Secured Creditor/Lessor under 11 U.S.C. §362(c)(4)(D)(ii) is overcome in this case because __

☐ See attached continuation page

6. **Evidence in Support of Motion: (*Important Note: Declaration(s) in support of the Motion MUST be attached hereto*).**

- a. ☐ Movant submits the attached Declaration(s) on the court's approved forms (if applicable) to provide evidence in support of this Motion pursuant to LBRs.
- b. ☒ Other Declaration(s) are also attached in support of this Motion
- c. ☐ Movant requests that the court consider as admissions the statements made by Debtor under penalty of perjury concerning Movant's claims and the Property set forth in Debtor's(s') Schedules. Authenticated copies of the relevant portions of the Schedules are attached as Exhibit __.
- d. ☐ Other evidence (*specify*): __

7. ☐ **An optional Memorandum of Points and Authorities is attached to this Motion.**

WHEREFORE, Movant prays that this Court issue an Order Imposing a Stay and granting the following (*specify forms of relief requested*):

1. ☐ That the Automatic Stay be continued in effect as to all creditors until further order of the court.
2. ☐ That the Automatic Stay be continued in effect as to the Secured Creditor/Lessor with respect to the Property until further order of the court.
3. ☐ That the Automatic Stay be continued in effect as to the Secured Creditor/Lessor with respect to actions to collect the debt owed to the Secured Creditor/Lessor until further order of the court.
4. ☒ That a Stay be imposed as to all creditors until further order of the court.
5. ☒ That a Stay be imposed as to the Secured Creditor/Lessor with respect to the Property until further order of the court.

6. ☒ That a Stay be imposed as to the Secured Creditor/Lessor with respect to actions to collect the debt owed to the Secured Creditor/Lessor until further order of the court.
7. ☐ For adequate protection of the Secured Creditor/Lessor by *(specify proposed adequate protection)* ____
8. ☐ For other relief requested, see attached continuation page.

Date: **September 27, 2023**

Respectfully submitted,
Patricia Ann Doublet

Movant Name

Nexus Bankruptcy

Firm Name of attorney for Movant (if applicable)

/s/Benjamin Heston

Signature

Benjamin Heston

Printed Name of Individual Movant or Attorney for Movant

DECLARATION OF MOVANT

I ___, am the ___ of Movant. I have read the foregoing motion consisting of ___ pages, and the attached materials incorporated therein by reference. If reference is made to balances owing, my testimony regarding same is based upon the business records of Movant kept in the ordinary course of business of Movant by persons whose responsibility it is to accurately and faithfully record information as to the Debtor's account on or near the date of events recorded. I am one of the custodians of such business records.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date

Printed name of declarant

Signature

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**100 Bayview Circle, Suite 100
Newport Beach, CA 92660**

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF ERRATA RE: MOTION IN INDIVIDUAL CASE FOR ORDER IMPOSING A STAY OR CONTINUING THE AUTOMATIC STAY AS THE COURT DEEMS APPROPRIATE** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 9/27/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Rod Danielson (TR) notice-efile@rodan13.com
United States Trustee (RS) ustpreion16.rs.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 9/27/2023 I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Judge Wayne E. Johnson
3420 Twelfth Street
Suite 384 / Courtroom 304
Riverside, CA 92501-3819

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL

Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed (state method for each person or entity served):

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

9/27/2023
Date

Benjamin Heston
Printed Name

/s/Benjamin Heston
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

ADDITIONAL SERVICEL LIST

Logix Auto Group
18017 Valley Blvd
Bloomington, CA 92316-1954

Internal Revenue Service
Centralized Insolvency Operation
PO Box 7346
Philadelphia, PA 19101-7346

SchoolsFirst Federal Credit
Union PO Box 11547
Santa Ana, CA 92711-1547

Employment Development Dept.
Bankruptcy Group MIC 92E
P.O. Box 826880
Sacramento, CA 94280-0001

Mohela
Claims Department
633 Sprint Drive
Chesterfield, MO 63005-1243

The Bank of New York Mellon
PO Box 10826
Greenville, SC 29603-0826

Franchise Tax Board
Bankruptcy Section MS: A-340
P.O. Box 2952
Sacramento, CA 95812-2952

Navy Federal Credit Union
P.O. Box 3000
Merrifield, VA 22119-3000

CERTIFIED MAIL

**C T Corporation System Agent
for Service of Process for Bank
of New York Mellon**
330 N. Brand Blvd.
Glendale, CA 91203

**Thomas P. Gibbons
CEO of the Bank of New York
Mellon**
240 Greenwich Street
New York, NY 10286